SUBMISSION

Submission to the Senate Economics References Committee — inquiry into the financial regulatory framework and home ownership

30 September 2024

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Via email: economics.sen@aph.gov.au

30 September 2024

Dear Sir/Madam

Inquiry into the financial regulatory framework and home ownership

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to your inquiry into the *financial regulatory framework and home ownership*.

ABOUT ASFA

ASFA, the voice of super, has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA's strategic objectives include to develop public policy position and advocate for:

- **Equity** between members in regard to levels of government assistance and in regard to superannuation balances and retirement incomes received
- The **dignity** of individuals in retirement, through ensuring the adequacy of retirement incomes, relative to the needs and expectations of retirees, and achieving the right balance between self -reliance and receipt of government assistance
- **Member outcomes** that are appropriate, optimised and have no unintended consequences
- **Operational effectiveness**, to deliver, at a reasonable cost, services of a type and standard that meet the needs and expectations of fund members and help them develop confidence in the system
- **Sustainability**, a super system underpinned by the principle of preservation fiscally sustainable, robust to changing demographics and to shifts in the structure of the economy and the associated funding needs of business and government

SUMMARY

ASFA, the voice of super, notes that the Committee's terms of reference for this inquiry cover a broad range of regulatory and prudential policy settings. The ASFA submission focuses on the appropriate involvement of corporate and institutional funds in the provision of housing and points to the very positive role played by superannuation fund investment in housing, including Build to Lease and Build to Lease to Purchase residential developments. Attention is also given to tax and other settings which impact on investment in new residential developments. This submission has been developed in consultation with our member organisations.

RECOMMENDATIONS

ASFA recommends that the Committee:

- acknowledge the importance of improving supply and the role of institutional investment, including through superannuation funds, in financing and constructing new Build to Lease or Build to Lease to Purchase residential accommodation
- support the streamlining of planning processes through quicker decisions and more timely consideration of feedback
- support the provision of bonuses in the planning process to encourage a greater supply of affordable housing
- support greater collaboration between landholders and institutional investors in order to encourage to large scale residential developments
- support appropriate disclosure arrangements for the transaction costs associated with residential property purchases
- support consideration of residential property specific benchmarks for the performance test for superannuation funds when the performance test is next reviewed
- support consideration by the States and Territories of legislation which would provide consumer protections equivalent to those provided by legislation in Victoria applying to rent to buy arrangements
- support consideration of a different GST treatment for dwellings that meet a certain criterion to be able to deliver affordable housing

If you have any queries or comments in relation to the content of our submission, please contact Ross Clare, Director of Research, on 0417 680 908 or by email rclare@superannuation.asn.au.

Yours sincerely

James Koval

Head of Policy and Advocacy

Superannuation investment in residential property

In order to address the matters considered by the Terms of Reference for the inquiry, a broad background about investments by APRA regulated superannuation funds may be of assistance.

Superannuation funds invest across a broad range of categories of investments, both domestically and overseas.

The table below provides information on the broad categories of investments by superannuation funds.

Asset allocation (funds with more than six members)

Asset class	Amount ($billion)	%
Cash	199	8
Australian fixed interest	323	13
International fixed interest	182	7
Australian listed shares	552	23
Listed property	63	3
Unlisted property	112	5
International listed shares	665	27
Infrastructure	207	9
Private debt	19	1
Unlisted equity	115	5
Alternatives	34	1
Total	**2,444**	**100**

Source: APRA December quarter 2023.
Asset allocation and MySuper funds totals are affected by derivative holdings liabilities.

Out of the listed property, $44.6 billion is invested in Australian listed property and out of the unlisted property $85.9 billion is invested in Australia.

The bulk of property investments are in (by order of magnitude) in offices, shopping centres, industrial properties and residential accommodation. Residential accommodation includes student accommodation, aged care accommodation, Build to Lease investments and Build to Lease to Purchase.

There is no official data from APRA or the ABS in regard to the level of investment in Build to Lease or Build to Lease to Purchase residential accommodation.

However, other data and sources indicate that superannuation funds have been involved in a broad range of financing arrangements. In regard to debt financing this has included the purchase of a substantial volume of bonds issued by Housing Australia (formerly the National Housing Finance and Investment Corporation). Superannuation funds have also been purchasers of Residential Mortgage Backed Securities along with being shareholders and deposit holders in regard to the Australian banks, who are large providers of housing finance.

Superannuation funds have also been involved, often in partnerships between superannuation funds and other institutional investors, in equity investments in:

- Build to sell to individual home owner developments

- Build to Lease to renters at market rates
- Build to Lease with option for the occupant to purchase the home
- Build to Lease to renters with a proportion of the housing development devoted to affordable housing

Research by ASFA into publicly released information by major superannuation funds indicates that superannuation funds have either directly provided or supported well over $30 billion in residential housing investment between 2018 and 2024, around 1 per cent of the assets of funds other than Self-Managed Superannuation Funds. Some of this investment has involved equity investments but there also has been substantial provision of debt finance to housing providers.

The overall housing stock in Australia is value at around $10,000 billion with the value of residential rental properties between $2,000 billion and $3,000 billion. Accordingly, the proportion of total residential properties owned or partially financed by APRA regulated superannuation funds currently is very low at around one per cent of the total. It is also a similar proportion of the total value of the rental housing stock in Australia. As a proportion of the total value of residential housing in Australia it would be 0.3 per cent or less.

There is also around $75 billion in residential property held by Self-Managed Superannuation Funds.

Private rental housing comprises the majority of rental housing in Australia, accounting for 2.4 million of the 2.9 million households that rent. According to the 2021 Census, around 31 per cent of households rent their home in the private rental market, a share that has risen over the past few decades.

Rental housing in Australia is predominately provided by individual landlords. Australian Taxation Office statistics indicate the in 2021-22 there were 2.27 million individuals reporting rental income. 1.6 million of those had only one property, with only 20,000 having more than 6 or more properties. In contrast, institutional investors typically invest in some hundreds of properties at a time.

Typically superannuation fund investment in residential housing involves construction of new housing rather than purchase of existing housing. Generally institutional investment in new residential housing developments will contribute to reducing the current shortfall in the provision of housing in Australia as it focusses on new property developments, unlike investments in rental properties by individuals which in almost all cases involve existing properties. As a result the institutional investment in housing will assist in moderating rent increases in the overall rental market through making more supply of housing available.

The role of institutional investment (including superannuation funds) in the Build to Lease market

The National Housing Supply and Affordability Council has identified nine goals that serve as guides to inform its deliberations and advice. These goals span the housing spectrum and reflect a desire to help the housing system meet the needs of the community and the economy.

1. Housing is affordable, fit for purpose and secure for households across income and geographic distributions.

2. There is fair access to home ownership, or alternative tenures that offer comparable benefits.

3. There is secure and dignified housing for tenants, and a sufficient return for investors.

4. There is a supply of new, well-located housing that matches the needs of Australia’s growing population and supports a productive economy.

5. There is efficient distribution and exchange of the existing housing stock.

6. The housing stock is environmentally sustainable and energy efficient.

7. Social and affordable housing is provided in sufficient amounts to fulfil its role as essential infrastructure for sustainable, productive and cohesive communities.

8. Experiences of homelessness are rare, brief and non-recurring.

9. The targets under the National Agreement on Closing the Gap for housing are achieved.

With the right policy settings in place, institutional investment to deliver new Build to Lease and build to lease to own residential developments has the potential to significantly contribute to overall housing supply, and deliver housing that:

- Improves affordability by increasing the supply of housing that meets the needs of lower and middle income earners
- Provides a pathway to home ownership.
- Offers longer term leases (in cases where a tenant seeks such a lease) providing secure fit for purpose housing for tenants.
- Well-located close to jobs and transport hubs
- Can include provision of social and affordable housing

Superannuation funds are responsible investors

There have been criticisms of some institutional investors overseas on the basis of their market behaviour. However, in Australia there is no evidence of such behaviour by institutional investors in general. Institutional investors have focussed on projects involving the construction of new residential properties. In many cases there are significant numbers of affordable housing units included in the property development. This is in contrast to investments by institutional investors in other countries that have been criticised.

Superannuation funds also provide build to lease to own residential properties on terms which are fair to consumers and which comply with relevant consumer protection legislation. This can provide renters with a pathway to home ownership. For example, a model used by some superannuation funds provides that residents are able to secure their rent and purchase price for up to five years, with the option to buy their home at any stage at an agreed value. Arrangements offered by superannuation funds are designed to provide appropriate conditions and protections for consumers.

In contrast, typical rent to buy arrangements provided by others in a number of States require residents to pay rent and "other payments" during their lease period with those "other payments" applied toward the purchase price. This means that the resident may be paying above market rent and if they decide not to purchase, in most cases, will lose their rental deposit and any "other payments" made. In recognition of this being unfair, the Government of Victoria passed laws under the Sale of Land Amendment Act 2019 that prohibit these types of rent-to-buy arrangements. There is a case for governments in other States and Territories to enact similar legislation.

The lease to buy arrangements offered by superannuation funds fully comply with the Victorian legislation. Superannuation funds take very seriously the community expectations and legal obligations that are relevant to the investments that they make. This provides significant protection for consumers, both those leasing a residential property and those who have entered into a lease to buy arrangement.

Removing impediments and providing incentives for investment in residential property

Increased construction costs and lengthy approval processes for new dwelling construction can impact on the likelihood of investment in residential property.

There are a number of initiatives that would assist with an expansion in the number of new residential properties being provided by institutional investors.

Institutional investors generally are interested in large scale investments, typically involving hundreds of housing units and hundreds of millions of dollars in investment. State and local governments could assist in making available suitable sites for such large scale projects, subject of course to appropriate tendering processes. Such projects also could be provided with streamlined planning and approval processes.

Australia's complex web of zoning and planning approval requirements is a key contributor to uncertainty and complexity. While each tier of government controls important policy levers relevant to housing development, governments often do not act in a coordinated or consistent fashion. Greater alignment across levels of government and across jurisdictions can create a more supportive policy environment.

Superannuation specific regulatory requirements

Requirements by the Australian Securities and Investments Commission (ASIC) under Regulatory Guide 97 are to disclose transfer duties (stamp duty) under total fees and charges if the investment is made directly. Stamp duty is fundamentally unlike the other fees and costs which are disclosed as part of the RG 97 regime. Whereas other transaction costs might be able to be reduced by the investor e.g. brokerage and legal fees, stamp duty is a tax imposed by Government for certain transactions and cannot be avoided or reduced by the investor but is subject to change at any time by Governments. Regulatory Guide 97 is designed to ensure fees and costs disclosures by superannuation funds are comparable however there is currently an inconsistency in how stamp duty is disclosed, depending on different asset structures.

However, disclosure on this basis can create the perception that a fund which invests directly in property has higher management expense ratios than other investors which may focus on the equivalent listed assets, which can be confusing to members and could be is a deterrent to potential members who are price sensitive.

There also are potential problems through the operation of the performance test, which is designed to hold funds to account for the investment performance they deliver and the fees they charge to members. The performance test as it is currently administered does not have a specific residential property investment return benchmark. The benchmarks for both listed property and unlisted property cover all property investments, not just residential property. This gives rise to potential tracking error for returns from residential property, which will generally have a different pattern to the investment returns from office, retail and industrial properties.

It is recommended that there be consideration of the introduction of residential property specific benchmarks when the performance test is next reviewed.

GST treatment

ASFA notes that many industry participants have advocated for a consideration of a different GST treatment for dwellings that meet a certain criterion to be able to deliver affordable housing.

It is considered a different approach to that currently in place could significantly positively alter the risk return profile for investment opportunities and help with the flow of capital. The introduction of input tax credits for the costs of construction is likely to incentivise more supply of affordable housing.

ASFA recommends that the GST treatment of Build to Lease residential properties be raised with the States.